

ORIGINAL

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

FELIPE SANCHEZ-MONTES

Case No. 3:99-CR-00036-HRH

Petitioner

RECEIVED

vs.

MAR 17 2008

UNITED STATES OF AMERICA,

CLERK, U.S. DISTRICT COURT
ANCHORAGE, ALASKA

Respondents.

AMENDED TITLE 28 UNITED STATES CODE SECTION 2255

Pursuant to Federal Rule Civil Procedure 15(c) (2)

"Relation Back Theory"

Cite: Mayle vs. Felix, 162 L.Ed.2d 582 (2005)

Now Comes; petitioner Sanchez-Montes with this amended [docket #457] Motion To Vacate, set aside, or correct a sentence under Title 28 United States Code Section 2255 pursuant to Federal Rule Civil Procedure 15(c) (2) "Relation Back Theory", on the following jurisdictional and constitutional claims.

"CLAIM ONE"

"FACT" Count Number One fails to properly state or charge a federal crime or offense, as it alleges a violation of Title 21 United States Code Section 846 "Conspiracy" to possess with the intent to distribute "Crack Cocaine" and "Cocaine" in violation of 21 USC §841(a) (1).

However; under 21 USC §841(a)(1)(A) the lack of the jurisdictional element of any specified amount of drugs ["No Actual Amount Of Illegal Drugs"] limits the court's jurisdiction or the indictment should be dismissed with prejudice as "Void Ab Initio", as the acceptance of defendant's guilty plea based on the foregoing claims limits the sentence to a maximum of One Hundred and Twenty Months Not the Three Hundred and Four Months imposed without jurisdiction imposed by a "Sua Sponte" determination by the court of the jurisdictional element of drug amounts not identified nor specified in the criminal indictment in violation of due process [actual notice].

"Judicial Notice"

Title 21 United States Code Section 841(a)(1)(A)

Wherefore; will The Honorable H. Russel Holland hereby grant this request to prevent a miscarriage of justice?

"CLAIM TWO"

Defendant was denied his statutory right to a direct appeal of his sentence via 18 United States Code Section 3742(a)(1)(2), as Congress made this the "Exclusive Avenue" in which a defendant can address any and all sentencing

guideline issues, as they are barred from adjudication under 28 USC §2255.

"Cause and Prejudice"

1) A violation of Federal Rule Criminal Procedure 32(c)(5) at sentencing by the judge, caused defendant to lose his statutory right to a direct appeal.

2) Ineffective counsel failed to file a direct appeal or to protect defendant's statutory right to a direct appeal via 18 USC §3742(a)(1)(2).

"Binding Precedent" Cites: Roe vs. Flores-Ortega, ____ L.Ed.2d ____ (2000) and Peguero vs United States, 143 L.Ed. 18 (1999)

Wherefore; will The Honorable H. Russel Holland issue a "Nunc Pro Tunc" order placing defendant Sanchez-Montes into a position to timely appeal his illegal sentence, based on the foregoing claims?

"CLAIM THREE"

The criminal indictment is void as the jurisdictional time limit of five [5] years was not timely to return a criminal indictment identifying defendant.

"CLAIM FOUR"

Through information and belief the United States Attorney provided false and coached perjured testimony by the government's witness identifying defendant, in violation of due process.

An Evidentiary Hearing is required on this claim, to expand the record.

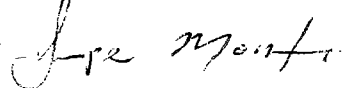
"IN CONCLUSION"

Will this Honorable Court hereby grant defendant's request to amend via Federal Rule Civil Procedure 15(c)(2) "Relation Back Theory" based on the foregoing jurisdictional and constitutional claims as presented?

Signed, dated and mailed

March 13th, 2008

Respectfully Submitted;

A handwritten signature in cursive script, appearing to read "Felipe Montes".

Felipe Sanchez-Montes

13723-006

USP Victorville

Box 5500

Adelanto, California 92301

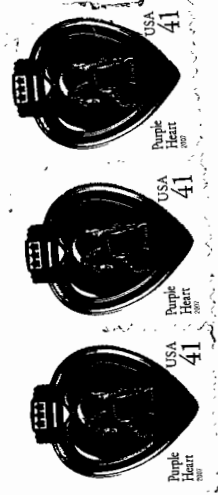
NAME FELIX SANCHEZ-MARTINEZ

REG # 13723-004

UNITED STATES PENITENTIARY

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